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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/508,932

09/24/2004

Jeffrey P. Demuth

04132

9878

20879

7590

08/29/2007

EMCH, SCHAFFER, SCHAUB & PORCELLO CO

P O BOX 916

ONE SEAGATE SUITE 1980

TOLEDO, OH 43697

EXAMINER

MYERS, CARLA J

ART UNIT

PAPER NUMBER

1634

MAIL DATE

DELIVERY MODE

08/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 10508932 | 9/24/04 | DEMUTH ET AL. | 04132 |

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EXAMINER

Carla Myers

| ART UNIT | PAPER |
|----------|----------|
| 1634 | 20070822 |

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Response to Amendment

The reply filed on July 12, 2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The response does not address the requirement to elect a particular combination of nucleic acids from Table 1 and 5, as set forth on pages 6-7 of the Office action of January 12, 2007. The response acknowledges the requirement to elect one or a combination of nucleic acids selected from the nucleic acids set forth in Table 1 and 5. Yet, the response states only that the claims have been amended to recite "two or more markers." The response states that this amendment provides a specific combination of markers. However, such an amendment to the claims does not overcome the requirement to elect two or more specific nucleic acids listed in Table 1 or 5. Again, Applicants are required to elect a SPECIFIC COMBINATION OF TWO OR THREE OR FOUR etc nucleic acid markers listed in Table 1 or 5. For example, Applicant may elect the combination of the two nucleic acids of the genes of ACTB and ABCC1, or the combination of the three nucleic acids of SEQ ID NO:1, 2 and 3, etc. See 37 CFR 1.111.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Art Unit: 1634

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carla Myers whose telephone number is 571-272-0747. The examiner can normally be reached on Monday-Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached on 571-272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carla Myers/

Primary Examiner, Art Unit 1634